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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

DOMENICO D’CARPIO, Individually
and On Behalf of all Others Similarly
Situated,

Plaintiffs,

v.

SELDAT, INC.,

Defendants.

Case No. 2:19-cv-00174-JLS-RAO

JOINT RULE 26(f) REPORT

1 The Parties have met and conferred and submit this document to the Court as
2 their Joint Rule 26(f) Report.

3 **a. Statement of the case:**

4 **Plaintiff has filed this case as a Collective and Class Action hybrid under**
5 **the FLSA and California law relating to the alleged misclassification of**
6 **defendant's security guards as independent contractors.**

7 **b. Legal issues:** a brief description of the key legal issues,
8 including any unusual substantive, procedural, or evidentiary issues.

9 **Plaintiff: Primary issues are: 1. Whether Plaintiff and security guards**
10 **who comprise the proposed class and collective properly were classified as**
11 **independent contractors rather than employees and 2. The damages that have**
12 **resulted if they have been misclassified; 3. Whether the classes under FLSA**
13 **and Rule 23 should be certified.**

14 **c. Damages:** the realistic range of provable damages.

15 **Plaintiff has misclassification damages relating to overtime under federal**
16 **law as well as missed meal and rest breaks and waiting penalties under state**
17 **law. At this time, the range of potential damages is not known.**

18 **d. Insurance:** whether there is insurance coverage, the extent of
19 coverage, and whether there is a reservation of rights.

20 **Defendant: none.**

21 **e. Motions:** statement of the likelihood of motions seeking to add
22 other parties or claims (*see* Local Rule 261(e)), file amended pleadings, to dismiss
23 for lack of jurisdiction, or to transfer venue.

24 **Plaintiff has been informed by defense counsel that the entity sued is not**
25 **the proper entity. When plaintiff has sufficient information to identify the**
26 **proper defendant, he will file an amended complaint. Plaintiff and Defendant**
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1 may file motions for summary judgment or partial summary judgment as to
2 the classification of security guards who comprise the proposed class.

3 f. **Complexity:** a discussion regarding the complexity of the case,
4 and whether all or part of the procedures of the Manual for Complex Litigation
5 should be utilized. *See* Local Rule 261(a).

6 **The case has been filed as a class action under Rule 23 and a collective**
7 **action under the FLSA. That said, the issues (centering on the alleged**
8 **misclassification of security guards as independent contractors) are not**
9 **complex. Neither party sees a current need to utilize the Manual for Complex**
10 **Litigation at this time.**

11 g. **Status of Discovery:** a report regarding the current status of
12 discovery, including whether initial disclosures have been made and a summary of
13 any completed discovery.

14 **None to date.**

15 **h. Discovery Plan:**

16 (A) what changes should be made in the timing, form, or requirement
17 for disclosures under Rule 26(a), including a statement of when initial
18 disclosures were made or will be made;

19 **No changes; the disclosures shall be made by April 1, 2019.**

20 (B) the subjects on which discovery may be needed, when discovery
21 should be completed, and whether discovery should be conducted in phases or
22 be limited to or focused on particular issues;

23 **Plaintiff will require a class list forthwith. Subjects for discovery include**
24 **the nature of the work and the relationship of defendant to the security guards**
25 **under the federal “economic realities test” and the California ABC test. Given**
26 **the lengthy process of giving notice both under the FLSA and Rule 23 (which**
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1 will result in the identification of the classes), plaintiff suggests a discovery cut-
2 off of December 2019.

3 Defendant may take discovery into this same issue, the alleged damages
4 suffered by Plaintiff and class members, and the propriety of Plaintiff serving
5 as a class representative. Defendant suggests a discovery cut-off date in or
6 about March of 2020.

7 (C) any issues about disclosure, discovery, or preservation of
8 electronically stored information, including the form or forms in which it
9 should be produced;

10 Neither party is aware of any issues under this rubric.

11 (D) any issues about claims of privilege or of protection as trial-
12 preparation materials, including—if the parties agree on a procedure to assert
13 these claims after production—whether to ask the court to include their
14 agreement in an order under Federal Rule of Evidence 502;

15 Neither party is aware of any issues under this rubric.

16 (E) what changes should be made in the limitations on discovery
17 imposed under these rules or by local rule, and what other limitations should
18 be imposed; and

19 The Parties suggest none.

20 (F) any other orders that the court should issue under Rule 26(c) or
21 under Rule 16(b) and (c)

22 i. Expert Discovery: The parties shall discuss the timing of expert
23 disclosures and discovery. *See* Fed. R. Civ. P. 26(a)(2); Local Rule 261(f).

24 The parties agree that expert discovery should be conducted per
25 code.

1 **j. Dispositive motions:** The parties shall set forth a description of
2 the issues or claims that any party believes may be determined by motion for
3 summary judgment or partial summary judgment. *See* Local Rule 261(b).

4 Plaintiff believes a motion for summary judgment regarding misclassification
5 under both federal and state law will likely be appropriate. Under federal law,
6 the “economic realities test” will apply. Defendant expects to move or cross
7 move for summary judgment or partial summary judgment on the same issue
8 and to establish that security guards engaged by Defendant who comprise the
9 proposed class or collective were not employees of Defendant.

10 **k. Alternative Dispute Resolution (“ADR”) Procedure**
11 **Selection:** The parties must select *either* ADR Procedure No. 2 (Court Mediation
12 Panel) *or* ADR Procedure No. 3 (private mediation); ADR Procedure No. 1
13 (conference with the magistrate judge) *may not* be selected by the parties. *See*
14 *generally* General Order 1110, § 5.1; Local Rule 261(c). For more information
15 about the Court’s ADR Program, please visit the “ADR” section of the Court
16 website, <http://www.cacd.uscourts.gov>.

17 **The Parties prefer private mediation.**

18 **l. Settlement Efforts:** Without disclosing the substance of the
19 communications, the parties shall advise the Court regarding whether they have
20 discussed settlement or had written communications regarding settlement. The
21 parties are advised that no case will proceed to trial unless all parties, including the
22 principals of all corporate parties, have appeared personally at a mediation.

23 **No settlement discussions yet.**

24 **m. Preliminary Trial Estimate:** The parties must provide a
25 realistic estimate of the time required for trial. *See* Local Rule 261(d). The parties’
26 estimate is for planning purposes only; the Court may allot fewer days for trial. The
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1 parties shall specify whether trial will be by jury or to the Court, and each side must
2 specify the number of witnesses it expects to call.

3 **The Parties expect that trial will last four days.**

4 **n. Trial counsel:** the name(s) of the attorney(s) who will try the
5 case.

6 **Plaintiff: Kevin Ruf**

7 **Defendant: Sabrina Shadi, Eric Witt**

8 **o. Independent Expert or Master:** the parties must advise the
9 Court whether this is a case in which a master pursuant to Federal Rule of Civil
10 Procedure 53 or an independent scientific expert should be appointed. The
11 appointment of a master may be appropriate if there are likely to be substantial
12 discovery disputes, numerous claims to be construed in connection with a summary
13 judgment motion, a lengthy *Daubert* hearing, or resolution of a difficult
14 computation of damages.

15 **p. Other issues:** a statement of any other issues affecting the status
16 or management of the case (*e.g.*, unusually complicated technical or technological
17 issues, disputes over protective orders, extraordinarily voluminous document
18 production, nonEnglish speaking witnesses, discovery in foreign jurisdictions, etc.)
19 and any proposals concerning severance, bifurcation, or other ordering of proof.

20 **None known to the Parties.**

21 **Class Action Scheduling Issues**

22 The parties are directed to the portion of Judge Staton's Procedures web page
23 (<http://www.cacd.uscourts.gov/honorablejosephinelstaton>) regarding class action
24 scheduling issues. As explained in further detail on the web page, the parties are
25 directed to discuss class action scheduling issues in their Joint Rule 26(f) Report.

26 **Plaintiff requests a class list as soon as practicable. Plaintiff expects to**
27 **file a conditional certification motion after an early round of discovery and a**
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Rule 23 class certification motion after determining the membership of the conditional class.

Dated: March 21, 2019

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Attorneys for Defendant

EXHIBIT A
PROPOSED SCHEDULE OF PRETRIAL AND TRIAL DATES

CASE NAME:
CASE NO:

Matter	Deadline	Plaintiff(s) Request	Defendant(s) Request
Last Day to File Motions to Add Parties and Amend Pleadings	Scheduling Conference Date plus 60 Days	July 5, 2019	July 5, 2019
Fact Discovery Cut-Off	18 weeks before the Final Pretial Conference ("FPTC")	April 13, 2020	April 13, 2020
Last Day to Serve Initial Expert Reports	16 weeks before the FPTC	April 27, 2020	April 27, 2020
Last Day to File Motions (except <i>Daubert</i> and all other Motions in Limine)	16 weeks before the FPTC	April 27, 2020	April 27, 2020
Last Day to Serve Rebuttal Expert Reports	12 weeks before the FPTC	May 25, 2020	May 25, 2020
Last Day to Conduct Settlement Proceedings	9 weeks before the FPTC	June 15, 2020	June 15, 2020
Expert Discovery CutOff	8 weeks before the FPTC	June 22, 2020	June 22, 2020
Last Day to File <i>Daubert</i> Motions	7 weeks before the FPTC	June 29, 2020	June 29, 2020
Last Day to File Motions in Limine (other than <i>Daubert</i> Motions)	4 weeks before the FPTC	July 20, 2020	July 20, 2020

1	Final Pre-Trial		August 21, 2020	August 21, 2020
2	Conference			
3	(Friday at 10:30 a.m.)			

PROOF OF SERVICE BY ELECTRONIC POSTING

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On March 21, 2019, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court's Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 21, 2019, at Los Angeles, California.

s/ Kevin F. Ruf

Kevin F. Ruf